

STATE OF IOWA
DEPARTMENT OF COMMERCE
UTILITIES BOARD

IN RE: INTERSTATE POWER AND LIGHT COMPANY	DOCKET NO. P-859
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**ORDER ESTABLISHING PROCEDURAL SCHEDULE AND PROPOSING TO
TAKE OFFICIAL NOTICE AND NOTICE OF HEARING**

(Issued August 2, 2004)

On June 25, 2004, Interstate Power and Light Company (IPL) filed a petition and exhibits for a permit to construct, operate, and maintain a natural gas pipeline approximately 1.44 miles long in Hardin County, Iowa. The proposed 6-inch diameter pipeline will transport natural gas from the Iowa Falls Gate Station to provide natural gas to the Iowa Falls Ethanol Plant south of Iowa Falls, Iowa. IPL filed amendments to its petition and exhibits on July 12 and 26, 2004.

On July 26, 2004, the Utilities Board (Board) assigned this proceeding to the undersigned administrative law judge.

THE BOARD'S AUTHORITY AND JURISDICTION

The Board has authority to grant permits for pipelines in whole or in part upon terms, conditions, and restrictions as to safety requirements, and as to location and route, as it determines to be just and proper. Iowa Code §§ 479.12 and 479.18 (2003).

To obtain a permit, the petitioner must show that the services it proposes to render will promote the public convenience and necessity. Iowa Code § 479.12. The petitioner must also satisfy the financial requirements of Iowa Code § 479.26.

THE ISSUES

Pursuant to Iowa Code §§ 479.7 and 479.8 and 199 IAC 10.6, this matter will be set for a public hearing for the presentation of oral and documentary evidence and the cross-examination of witnesses concerning the public convenience and necessity issue, any safety issues, any pipeline location and route issues, the financial issues, and issues raised by objectors or any other party. Except for the endpoints, the entire route of the proposed pipeline is in public right-of-way. Since the proposed pipeline will not be constructed in agricultural land, the land restoration requirements do not apply to this project. Iowa Code § 479.29. The conduct of this case is governed by Iowa Code Chapters 17A and 479, and § 476.27, and by Board rules at 199 IAC 10.

PREPARED TESTIMONY AND EXHIBITS

All parties will be given the opportunity to present and respond to evidence and argument on all issues, and to be represented by counsel at their own expense. Iowa Code § 17A.12(4). The proposed decision and order that the administrative law judge will issue in this case must be based on evidence contained in the record and on matters officially noticed in the record. Iowa Code § 17A.12(8). Unless contrary

arrangements are made on the record at the hearing, all evidence will be received at the hearing, and the record will be closed to any further evidence at the conclusion of the hearing.

The submission of prepared evidence prior to hearing will help to identify disputed issues of fact to be addressed at the hearing. Prepared testimony contains all statements that a witness intends to give under oath at the hearing, set forth in question and answer form. When a witness who has submitted prepared testimony takes the stand, the witness does not ordinarily repeat the written testimony or give a substantial amount of new testimony. Instead, the witness is cross-examined by the other parties concerning the statements already made in writing. The use of prepared testimony prevents surprise at the hearing and helps each party to prepare adequately for the hearing, so that a full and true disclosure of the facts can be obtained. Iowa Code §§ 17A.14(1), 17A.14(3) and 479.11. This procedure also tends to diminish the length of the hearing, and spares the parties the expense and inconvenience of additional hearings.

IPL must submit prepared testimony and exhibits in accordance with the procedural schedule set forth in this order. At a minimum, IPL's prepared testimony must address the issues listed above. In addition, IPL must clarify what the minimum distance will be between the pipeline and the 115 kV and 69 kV double circuit electric transmission line towers, including at crossings, discussed in the report dated July 16, 2004, filed in this docket by Mr. Jeffrey L. O'Neal. IPL has proposed to

construct the pipeline in the right-of-way of Riverside Drive/Brooks Road/140th Street, and has proposed that the pipeline would cross Brooks Road twice near the intersections of Lawler Street and South River Street at angles other than a right angle. Exhibit E says IPL will obtain the necessary permits from the City of Iowa Falls and Hardin County and will submit a copy of the approved permits to the Board prior to construction of the pipeline as required in 199 IAC 10.2(1)"e." As discussed in the report by Mr. O'Neal, until 199 IAC 10.14(2) is amended, a pipeline permit cannot be issued until IPL provides a showing of consent for the crossings by the City of Iowa Falls and Hardin County. In addition, as discussed in the O'Neal report, IPL must file a revised Exhibit C showing a corrected value for "% SMYS at MAOP" in paragraph three or an explanation of why it believes 10 percent is the correct figure with its prepared testimony.

The Consumer Advocate Division of the Department of Justice (Consumer Advocate) and any objectors may also file prepared testimony and exhibits before the hearing in accordance with the procedural schedule.

Parties other than IPL who choose not to file prepared testimony and exhibits before the hearing will not be precluded from participating in the proceedings. If an objector, for example, does not intend to present evidence going substantially beyond the information contained in the letter of objection, it is unnecessary for the objector to file prepared testimony. However, when a party has a substantial amount of information to present to the Board about the petition, if the information has not

been previously disclosed to the Board, it should be presented in the form of prepared testimony and exhibits according to the procedural schedule established below.

PARTY STATUS

IPL and the Consumer Advocate are currently the only parties to this proceeding. Iowa Code §§ 17A.2(8) and 475A.2(2). No one has filed an objection to the petition as of the date of this order. IPL does not request the right of eminent domain for this pipeline.

Anyone who has filed or will file an objection pursuant to Iowa Code §§ 479.9 and 479.10 and 199 IAC 10.5 will also be presumed to be a party to this case. However, no objector is entitled to party status merely because that person has written a letter of objection. In order to qualify as a party, the objector must be able to demonstrate some right or interest that may be affected by the granting of the permit. Iowa Code § 479.9. An objector's status as a party may be challenged at the hearing, and an objector who cannot demonstrate a right or interest that may be affected by the granting of the permit will no longer be considered a party. Therefore, at a minimum, objectors should be prepared to give evidence that will explain the nature of their specific rights or interests they believe should be protected, and will show how these rights or interests will be affected by the pipeline. As has already been noted, to the extent that the evidence goes substantially beyond information already communicated to the Board in an objection letter, it should be reduced to

writing and filed as prepared testimony according to the procedural schedule established below.

Because objectors will be presumed to be parties up to the time of the hearing, an objector will receive copies of all documents that are filed in this docket after the letter of objection has been filed with the Board. This means that if a person files an objection after some or all of the prepared testimony and exhibits has been filed with the Board by other parties, the objector should make direct contact with the parties who have already filed prepared testimony and exhibits in order to obtain a copy of those materials. The official file of this case will be available for inspection at the Utilities Board Records and Information Center, 350 Maple Street, Des Moines, Iowa. 199 IAC 1.9(1).

Objections must be filed no less than five days prior to the date of hearing. Late-filed objections may be permitted if good cause is shown. 199 IAC 10.5. Objections must be made in writing and filed with the Executive Secretary of the Board, 350 Maple Street, Des Moines, Iowa 50319-0069.

After an objector has filed a letter of objection, all further communications from the objector to the Board having to do with this case (including motions or prepared testimony and exhibits) should be sent to the Executive Secretary of the Board. A party (including objectors) must file an original and two copies of each communication with the Executive Secretary and the party must send one copy to each of the other parties to this case, except that three copies must be sent to the

Consumer Advocate. 199 IAC 1.8. Along with the communication being sent, the party must file with the Board a certificate of service that conforms to 199 IAC 2.2(16), which verifies a copy of the document was served upon the other parties.

These procedures are necessary to comply with Iowa Code § 17A.17, which prohibits ex parte communication. Ex parte communication is when one party in a contested case communicates with the judge without the other parties being given the opportunity to be present. In order to be prohibited, the communication must be about the facts or law in the case. Calls to the Board to ask about procedure or the status of the case are not ex parte communication. Ex parte communication may be oral or written. This means the parties in this case may not communicate about the facts or law in this case with the undersigned administrative law judge unless the other parties are given the opportunity to be present, or unless the other parties are provided with a copy of the written documents filed with the Board.

The parties should examine 199 IAC Chapters 10 and 25 and 199 IAC 1.8 for other substantive and procedural rules that apply to this case. There is a link to the administrative rules on the Board's website at www.state.ia.us/iub.

PROPOSAL TO TAKE OFFICIAL NOTICE

Mr. Jeffrey O'Neal, regulatory engineer for the Board's Safety & Engineering Section, has prepared a report in the form of a memo dated July 16, 2004, concerning IPL's petition. A copy of the report is attached to this order. Pursuant to

Iowa Code § 17A.14(4), the undersigned administrative law judge proposes to take official notice of the report and of the facts contained therein, thus making it a part of the record of this case. Iowa Code § 17A.12(6)(c). Any party objecting to the taking of official notice of the report must file such objection as soon as possible, and no later than five days prior to the hearing. The parties will have the opportunity to contest any information contained in the report in prepared testimony and at the hearing. Mr. O'Neal will be present at the hearing and available for cross-examination regarding his report.

IT IS THEREFORE ORDERED:

1. Each person who files a letter of objection to IPL's petition in this docket will be presumed to be a party in the proceeding unless it is established at hearing that the objector has no right or interest that may be affected by the pipeline.
2. Objections must be made in writing and filed with the Executive Secretary of the Board, 350 Maple Street, Des Moines, Iowa 50319-0069, no later than five days before the hearing. Objectors must file an original and two copies of all subsequent communications to the Board with the Executive Secretary. The communications must be accompanied by a certificate of service as discussed in this order.
3. The following procedural schedule is established:
 - a. On or before August 24, 2004, IPL must file prepared direct testimony relating to its petition as discussed in this order.

b. If the Consumer Advocate or any objector chooses to file prepared responsive testimony, it must do so on or before September 10, 2004.

c. A public hearing for the presentation of evidence and the cross-examination of witnesses concerning the issues identified in this notice of hearing will be held beginning at **2 p.m. on Tuesday, September 21, 2004**, in Board Conference Room 3, 350 Maple Street, Des Moines, Iowa 50319. Each party must provide a copy of its prefiled testimony and exhibits to the court reporter at the hearing, or must make arrangements for such provision if not physically present at the hearing. The hearing will be by telephone conference call unless any objections are filed, or unless any party files an objection to a telephonic hearing at least five days prior to the hearing. Parties and persons who wish to be connected to the hearing must dial 1-866-708-4636 to reach the bridge line. Persons with disabilities who will require assistive services or devices to observe this hearing or participate in it should contact the Board at (515) 281-5256 at least five business days prior to the hearing to request that appropriate arrangements be made.

4. Required number of copies. All parties must file an original and two copies of all documents filed with the Board. 199 IAC 1.8(4)"d".

5. The undersigned administrative law judge proposes to take official notice of Mr. O'Neal's report dated July 16, 2004, that is attached to this order, and of

the facts contained in the report. Any party objecting to the taking of official notice of the report should file such objection as soon as possible, and must file such objection no later than five days prior to the hearing.

6. Pursuant to Iowa Code §§ 17A.12(1) and 199 IAC 10.4, a copy of this order will be served by ordinary mail upon IPL and the Consumer Advocate. No persons have filed objections to the petition as of the date of this order.

7. IPL must work with Board staff regarding publication of notice pursuant to Iowa Code § 479.7 and 199 IAC 10.4, and must file proof of publication prior to or at the hearing.

UTILITIES BOARD

/s/ Amy L. Christensen
Amy L. Christensen
Administrative Law Judge

ATTEST

/s/ Sharon Mayer
Executive Secretary, Assistant to

Dated at Des Moines, Iowa, this 2nd day of August, 2004.

**Department of Commerce
UTILITIES DIVISION
SAFETY & ENGINEERING SECTION**

TO: Docket No. P-859

FROM: Jeffrey L. O'Neal

DATE: July 16, 2004

SUBJ: Staff Review of Interstate Power and Light Company Petition for Pipeline Permit for 1.44 Miles of 6-inch Diameter Natural Gas Pipeline in Hardin County, Iowa.

On June 25, 2004, Interstate Power and Light Company (IPL) filed a Petition for Pipeline Permit with the Utilities Board (Board) for a proposed natural gas transmission pipeline in Hardin County, Iowa. On June 27, 2004, I conducted a field examination of the proposed route. By letter dated July 2, 2004, Board staff advised IPL of petition deficiencies requiring correction, and requested additional information on certain items. On July 12, 2004, IPL filed a revised petition and exhibits and provided additional information. The July 12, 2004, filing revised a portion of the route, slightly increasing of the total length of the project, and reduced the proposed maximum operating pressure of the pipeline.

The petition as amended is for construction of 1.44 miles of 6-inch diameter steel pipeline. The proposed pipeline would extend from the Iowa Falls Gate Station to the Iowa Falls Ethanol Plant currently under construction south of Iowa Falls, Iowa, and would operate at a maximum allowable operating pressure (MAOP) of 175 psig.

No informational meeting was held for this project. An informational meeting was not required because the proposed pipeline project is less than 5 miles long. See 199 IAC 10.3.

Route Inspection

I examined the route of the proposed pipeline on June 27, 2004. The route begins at the Iowa Falls Gate Station on the south side of Iowa Falls, where Northern Natural Gas Company delivers natural gas to IPL for distribution to customers in Iowa Falls. The route follows a single road for its entire length, but the road is known by three different names in this area. East of U.S. Highway 65, the road is known as Riverside Drive. West of U.S. Highway 65 and inside the city limits of Iowa Falls, the road is known as Brooks Road. Further west,

outside the city limits of Iowa Falls, the road is known as 140th Street. The route follows the north side of Riverside Drive west to U.S. Highway 65, crosses the highway, and continues west along the north side of Brooks Road. The land immediately surrounding the Iowa Falls Gate Station is in row crops, but the route enters a commercial area of Iowa Falls near the crossing of U.S. Highway 65. The route continues through a commercial and industrial area in Iowa Falls, crosses to the south side of Brooks Road at Lawler Street, and passes in front of 5 residences on the south side of Brooks Road between Lawler Street and KK Avenue (a/k/a S. River Street). At KK Avenue, the route crosses back to the north side of Brooks Road, and continues west along the north side of Brooks Road/140th Street to a point just north of the Iowa Falls Ethanol Plant, then crosses the road to its endpoint on the south side of 140th Street at the Iowa Falls Ethanol Plant. West of KK Avenue the land is in row crops except for the Iowa Falls Ethanol Plant currently under construction, and a residence on the south side of the road, west of the endpoint of the proposed pipeline. The route is flat from the Iowa Falls Gate Station to KK Avenue, and flat to gently rolling from KK Avenue to the Iowa Falls Ethanol Plant. Except for the endpoints, the proposed pipeline route is entirely on public road right-of-way.

An existing double circuit electric transmission line follows the proposed pipeline route from the Iowa Falls Gate Station to Lawler Street. However, the electric transmission line is on the south side of the road, while the proposed pipeline route is on the north side of the road here. There was also a new electric transmission line under construction along the south side of Brooks Road from KK Avenue to the endpoint of the proposed pipeline at the Iowa Falls Ethanol Plant. The proposed pipeline route is on the north side of the road here, until it crosses the road at its endpoint to serve the Iowa Falls Ethanol Plant.

Due to proximity to commercial and industrial buildings along Riverside Drive/Brooks Road, much of the proposed route is in a Class 3 location as defined by Federal Minimum Safety Standards in 49 CFR Part 192. Class 3 is a high population density classification. (See § 192.5 for definitions of class locations.) Portions of the route at each end of the pipeline are in less populated areas, and might qualify as Class 1 (low population density) locations. However, IPL has designated the entire route as a Class 3 location, and has stated it will design, construct and test the entire pipeline to the higher Class 3 location standards. This seems prudent considering the possibility of future development in this area.

In a letter dated July 2, 2004, staff requested IPL file a revised Exhibit B to correct street names shown on the map, and requested additional information about the electric lines near the pipeline route and their possible effect on the pipeline. On July 7, 2004, IPL filed a revised Petition and Exhibits that addressed these questions. Otherwise, the examination of the route found no safety code compliance or unusual construction issues, or other related matters that need to be addressed in this docket.

Petition

Natural gas pipelines must comply with the federal pipeline safety standards of 49 CFR Part 192, which have been adopted by the Board in 199 IAC 10.12(1)"b". The information filed by IPL shows the pipeline will be designed, constructed and tested in compliance with these standards. Exhibit C, Attachment 1, and Exhibit F state the pipe will be designed and tested to qualify for a maximum allowable operating pressure (MAOP) of 285 psig, but the pressure rating of a meter being used will limit the MAOP to 175 psig. Therefore, any permit issued for this pipeline should specify a maximum operating pressure of 175 psig.

IPL plans to use PSL 2 pipe, which is more resistant to rupture than the alternative PSL 1 pipe. (Both PSL 1 pipe PSL 2 pipe comply with the safety standards.)

A portion of the proposed pipeline will parallel an existing 115 kV and 69 kV double circuit electric transmission line, and a proposed 69 kV electric transmission line¹ would run along the western half mile of the proposed pipeline route. IPL has stated its future plans include increasing the voltage on the 115 kV electric line to 161 kV, installing a new 161 kV electric line along another portion of the proposed pipeline route, and installing a 161 kV electric line as a double circuit with the 69 kV line currently being proposed. As stated in Exhibit F, IPL has designed the pipeline route to run along the opposite side of the road from all of these existing and future planned electric transmission lines. Based on the findings of a consultant regarding similar issues in other recent projects², IPL believes this pipeline will be far enough from the electric lines to avoid any adverse affects on the pipeline. Considering the voltage of the electric transmission lines, the distance between the pipeline and the electric lines, and the total length of this pipeline, this appears to be a reasonable conclusion. However, in addition to paralleling the electric transmission lines, the pipeline will also cross the electric transmission lines more than once. IPL should be asked to state in prefiled testimony the minimum distance between the pipeline and electric transmission line towers, including at crossings.

The pipeline will be constructed in the right-of-way of Riverside Drive/Brooks Road/140th Street, and the pipeline will cross Brooks Road at other than an approximate right angle at Lawler Street and South River Street. Exhibit E states IPL will obtain the necessary permits from the City of Iowa Falls and Hardin County and will submit a copy of the approved permits to the Board prior to

¹ Docket No. E-21686

² Docket Nos. P-848 and P-848, Amendment No. 1

construction of the pipeline. See 199 IAC 10.2(1)e and 10.14(2)³. Riverside Drive/Brooks Road/140th Street is considered a “highway” for the purpose of these rules. Therefore, although this case can be set for hearing prior to IPL’s filing of these permits with the Board, a pipeline permit cannot be issued until these permits have been filed.

The proposed route is on public road right-of-way, not on agricultural land. Therefore, an Agricultural Land Restoration Plan was not required, and none was filed, as stated in Exhibit I.

On Exhibit C, under Item 2, IPL states “% SMYS at MAOP” will be 10%. IPL originally proposed an MAOP of 285 psig for this pipeline, which would be 10% of SMYS (specified minimum yield strength), but IPL’s July 12, 2004, filing changed the proposed MAOP for this pipeline to 175 psig. At an MAOP of 175 psig, the pipeline will operate at 6% of SMYS. This discrepancy is not significant enough to preclude setting this docket for hearing, but IPL should be asked to file a revised Exhibit C showing with a corrected value for “% SMYS at MAOP” prior to the hearing.

On page 2 of Exhibit F, IPL states the Potential Impact Radius (PIR) for this pipeline, as defined in 49 CFR § 192.903, will be 60 feet. By my calculation the PIR will be 55 feet. It appears IPL may have used the outside diameter to calculate the PIR, rather than the nominal diameter, as specified in the rule. The PIR stated by IPL is more conservative than required. This discrepancy is not significant enough to require IPL to revise this exhibit.

No objections have been filed as of the date of this report.

Summary

I have reviewed the petition and exhibits in this docket. The information presented shows the proposed pipeline would comply with all design, construction, and testing requirements set forth by the Iowa Utilities Board. The filing appears in sufficient order to set a date for hearing.

IPL should be asked to state in prefiled testimony the minimum distance between the pipeline and electric transmission line towers, including at crossings.

A pipeline permit cannot be issued until these IPL provides showing of consent by highway authorities for longitudinal occupancy in road right-of-way and road crossings at other than an approximate right angle.

³ Rule 10.14(2) is inconsistent with rule 10.2(1)e, which allows a pipeline permit to issue if the petitioner states all needed road and railroad crossing permits will be filed with the Board prior to construction. Staff has recently proposed a change to 10.14(2) that would make it consistent with 10.2(1)e. However, for now, the more restrictive 10.14(2) controls.

On Exhibit C, under Item 2, IPL states “% SMYS at MAOP” will be 10%. At an MAOP of 175 psig, the pipeline will operate at 6% of SMYS. IPL should be asked to file a revised Exhibit C showing with a corrected value for “% SMYS at MAOP” prior to the hearing.